IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 246 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

BAKUBHAI MANSUKHBHAI CHARITY TRUST

Appearance:

1. INCOME TAX REFERENCE No. 246 of 1995

MR MIHIR H JOSHI with MR MANISH R BHATT for Petitioner No. 1

MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 07/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for our opinion in respect of assessment years 1983-84 and 1984-85:-

"Whether, the amounts adjusted for payment to Nirmala Backubhai Foundation for the purpose of development and maintenance of BM Institutes could be said to have been applied for the objects of the Trust ?"

2. We have heard Mr Mihir H Joshi learned counsel for the revenue and Mr RK Patel learned counsel for the respondent-assessee.

3. The learned counsel for the parties agree that the controversy raised herein was also raised before this Court in CIT vs. Nirmala Bakubhai Foundation, (1997) 226 ITR 394 and in assessee's own case being Income Tax Reference No.288 of 1985 which was decided on 6-11-2000.

4. Having perused the said decisions which were in favour of the assessee, we answer the question referred to us in the affirmative i.e. in favour of the assessee and against the revenue.

5. The Reference accordingly stands disposed of with no order as to costs.

(M.S. Shah,J)

(D.A. Mehta,J)

zgs/-